App I IX 1

Previous Reference
mil 170-22 Sh 47

1938
(mil)

mil File No 43-38
Serial Nos 3, 5
21 & 24

Letter Reference

GENERAL AND REVENUE SECRETARIAT

Serial Nos four

Part B for July 1939

SUBJECT

Levy of Profession Tax by the Catalonian Town Municipals

Sl 24) to the D C Catalonia Dn
No L 1033 of 27/7/38
States that there is nothing illegal in the —— and asks that that certain items should not be given effect to

WD 0418—CIB— 00— 38 6

G R S APP F III—1]

GENERAL AND REVENUE SECRETARIAT

(ML)

NOTES

File No 43-38

FILE HEADING

Levy of professions tax by the Chitaldrug Town Municipality.

Petition FROM Some advocates and pleaders of Chitaldrug

No Dated 27-3-1939 Received 30-3-39

Diary No 52 22 | Enclos | Spare copies | Serial No 3

BRIEF ABSTRACT OF LETTER

Pray that 1) the collection of the professional tax imposed during the current year be dispensed with as being illegal for certain reasons set forth by them 2) and that fresh and proper rules be framed for its levy

NOTES AND ORDERS

× × ×

1) May be examined
Ind P H K
Ind M S H
30/3

2) The levy of professions tax stated to have been imposed by the Chitaldrug TM Mly relates to the current year.

NOTES—First Sheet

WD 0283—GPB—8 50—25 1 38

Levy of Professional tax by the Chitaldrug Town Municipality

5224

2nd File No 43 of 1938 General and Revenue Secretariat

3) Allusion is made to the bye-laws of the said Municipality regarding the new levy and to 2) the resolution said to have been passed by the said Municipal Council in that behalf both of which have not accompanied the petition And these records seem to be necessary for a thorough examination of the points raised by the petitioners

4) Item No 9 of the petition reads the resolution is ultra vires, 'as legal formalities are not complied with' If approved the D.C will be requested to go into the matter and submit a full report for the information of Government, duly for orders

Yes 3/4 for

5) The opinion from the D C Chitaldrug may be called for

2 3/4/1

Levy L 5/9)

6) Yes 3/4

2 3/4/1

7) Draft letter to D.C chitaldrug is duly for appl as directed above

Yes 4/4 for

8) Yes 2 4/4/1

9.4.39

TYPING SECTION 4 APR 1939 GEN & SCTT

To The D.C Chitaldrug
No L 8091 — 1 6-4-1939
Case for a report on the matter

Yes 8/4

Levy of Profession Tax in Chittagong

General and Revenue Secretariat | File No 43 of 1939 | [App F III—2

Serial No 21

From the Dy Comr, Chittagong Dist
Letr No Ab C 44/12/38-39 Dated 9 6 39
forwards the report called for
9) Govt refer to marginal to Govt No L 7669 Fit 1-10 22 7 Dated 25 3 24 sanctioning the Dft rules and byelaws in regard to the levy of profession tax in the Chittagong Town Municipality
10) No action appears to have been taken to levy the tax accordingly till 1st July 38 whence the tax is being collected in the Municipality, as per a resoln of the Mcl Dated 24/38
11) the levy has now been objected to on the grounds 1) that the Old Act under which the byelaws have been framed has been repealed by the T P Act of 1933, 2) that byelaws have been given effect to only from the current year 3) that the schedule of the rates appended to the repealed Act is different from those fixed in the Schedule to the Act of 1933 4) that the prescribed formalities have not been followed in respect of the levy and 5) that the rates are not within the Maximum prescribed under the Act
12) But the Mcl President holds that the validity of the byelaws under the old Act is not affected since it has been saved under Sec 93(a) of T P Act 1933

NOTE—Contn Sheet

WD 0 44—GPB—30 000—2 9 83

5222/6606/I 7802/P
Levy of profession tax on chikalgaon

File No Mcl dp 3 of 193 | General and Revenue Secretariat

and that there is nothing to prevent a Municipal from levying taxes at the maximum rates prescribed ~~&c~~ He further states that the Mcl would be willing to consider the question of reducing the rates if necessary, provided the levy itself is not challenged on points of law

13) The Dy Comr agrees with the views of the Mcl and states that the present levy which is in accordance with the sanctioned bylaws is necessary to augment the revenues of the municipality, the financial condition of which is not satisfactory

14) Submitted for the orders of para 5 & 6 supra

15) The opinion of the Law Section may perhaps be obtained on the legal points raised in the petition as it is necessary for the disposal of the case

27/6/39

16) In favour of remarks

Asst Levy Law 2/27/6/-

N C)

411 Law BOAR 286

17) The advocate of Messrs Chemical Dyes in their petition state that the Professional Tax Levied by the Chikalgaon municipality is also liable on the reasons set forth by them in their petition

18) The objection ~~of~~ is

Serial No

raised & the Lawyers do not seem to be desirable

19) The Municipality at present have taken steps to levy Professional Taxes under Bye Laws passed & sanctioned & Govt under the old Municipal & the New Regulation Regulation. Now they can do so, for, under Sec 2 (6), all by laws made under the enactments repealed are deemed to have been made under the new Regulation. Hence the steps taken by the Municipality is perfectly valid in law

20) From the letter of the Vice President Hosur it is seen that all the formalities required under Law have been observed before passing the Bye laws & sanction of Govt also obtained. So far as I can see there is nothing in the present Bye Laws which is repugnant to the Sections of the new Regulation. The only difference is, in the new rates prescribed in the old & the new Schedules in the new Schedule Classes I & II of the old Schedules are omitted. This difference in the Schedule does not invalidate the Bye Laws. The Govt have power to alter existing taxes from time to time under any Bye Law, after lapse of a number of years from the time the Bye Law came into force, does not in any way invalidate the Bye laws. As the Municipality are acting under a valid Bye Law, no further sanction of Govt necessary for their act. The only thing re-

NOTE—C 1 Sheet

Levy of profession tax in Chitaldrug

Ml File No 43 of 1938 | General and Revenue Secretariat.

Serial No

the Municipality to fix the rate of levy of Tax in accordance with the rules as laid down in the Fifth Schedule

21) Thus the Municipality can levy the Tax in accordance with the rules laid down in the Fifth Schedule, & the Lawyers cannot contend that there is anything illegal in the levy of Tax by the Municipality.

Law Secretary) 13/7/38

SECY LAW DEPT 40 18 JULY 1939 GOVT OF MYSORE

22) The bye laws & rules framed under the old Act are deemed to have been made under the Town Municipalities Act by virtue of Sec 2(b) Therefore the bye laws & rules were in existence though they had not been given operation There is nothing illegal in the Municipality giving effect to them in 1937

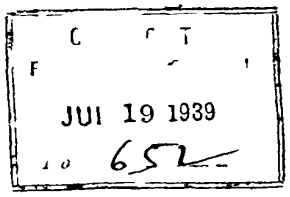
23) The only difference between the schedules of the old Act & the new Act ~~is~~ is this - In the former extra there are two classes of persons getting income of viz Rs 2000 & over Rs 1500 They cannot be taxed under the new Act as separate classes They would

General and Revenue Secretariat

Levy of professions tax in Chitaldrug

Ml File No 43 of 1938 [App F III 2

Serial No



Merge under the class getting over Rs 1000

24) There is nothing illegal in the levy of the said tax (vide Section 18 Sub-section 1) Cl 18/1 3 18/7

25) Secy 20/7/39 6 28/7 Sd/- 21/7

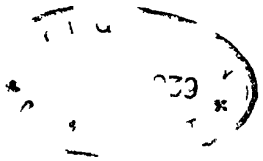
5 Cl 30)

26) Draft letter to the Chitaldrug is submitted for approval

for PRS

27) Refer para 24 above. Yes 24 for the draft, please note as given at Class I Sl II of the Schedule annexed to the Rules

28) Secy 2/8/39



To The Dy. C Chitaldrug dated No L 1033 / 27-7-1939

24

States that there is nothing illegal in the levy of the said tax and that the collection may be continued as heretofore

Yes-29/7

Note Contd. Sheet

Levy of profession tax by the Chirtalapur Town Mly

File No 43 Col 1978

General and Pevenue Secretariat

Serial No

3d) Submitted for orders, if an endorsement to the Petitioners is necessary The Bde has however, been informed fully × (Vide PL S

3,1) No clear address of any one of the Signatories to the petition can be made out except that of one M S Reddy Advocate, Chirtalapur - the 19th Signatory

No endorsement is necessary

2
29/7/-

Yes
29/7/-

B
29/7/-

5222
La

9m KNS

SECY LSG 3 1 GOVT

Dr 4338 3

9/2/31

To

The Secretary to Government,
Local Self-Government Department,
B a n g a l o r e

Sir,

We the Advocates & Pleaders) of Chitaldrug do hereby beg to bring to your kind notice the following facts regarding the levy of professional tax for the current year and urge that the rates be revised and proper action be taken therein

1 The byelaws regarding the levy of professional tax were framed and sanction of Government obtained on 25th March 1924 These byelaws were framed under Section 46(i) of the Mysore Municipal Regulation which Regulation has been repealed by the Town Municipalities Regulation of 1933

2 The byelaws which were framed for purposes of professional tax were not put into force and no professional tax was levied so far

3 The schedule regarding the professional tax appended to the repealed regulation under which the byelaws regarding the rates of professional tax were fixed is different from the schedule in the new Regulation

4 The byelaws now existing are not in conformity with the new Regulation

5 The resolution passed by the Municipal Council regarding the levy of professional tax has not been sanctioned by the Government

6 The legal formalities prescribed in Sec 61 and 62 are not complied with

7 The resolution now passed by the Municipal Council is not valid without the sanction of the

P T O.

the Government and without the preparation of fresh byelaws and rules prescribing rates of professional taxes under Schedule V of the New Regulation

8 The Schedule V of the New Regulation only gives the maximum leviable rates for each class above which the Municipality cannot tax In view of its local economic conditions each Municipality has to fix its own rate for each class

9 The resolution is ultra vires, as legal formalities are not complied with

10 So it is prayed that the collecting of the professional tax as is now imposed be dispensed with as being illegal and fresh and proper rules be framed for levying of the tax as per Sections 61 and 62

Chitaldrug
27th March 1939

Pleader

Pleader

Pleader

Pleader

Advocate Chitaldrug

Advocate

Advocate

Advocate

Appendix F G

SUBJECT

Section ML
File No 43-38
Serial No 5

Diary No of letter replied to

No L 8091 Revenue

To The Deputy Commissioner
Chitaldrug district

General and Revenue Secretariat
( )
the *193*

Sir

I am directed to forward herewith a copy of the petition dated the 27th March 1939 from some of the Advocates and pleaders of Chitaldrug, on the subject of the levy of professional tax by the Chitaldrug Town Municipality and to request you to examine the several points raised therein, and to submit a full report for the information of Government with all the connected records

Date of issue 6-4-1939

Signed by [illegible]

+ Please see P U D

List of enclosures

Copied by

Examined by

I have ele

2/4/41.

For Secy to Gov

from DSC Depew

Yes

4/4

GOVERNMENT OF [redacted]SS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated Bangalore 6th April 1939

No L8091/ml43 38 5

From

The Secretary to the Government of His Highness the Maharaja of Mysore
Local Self Government Department

To

The Deputy Commissioner
Chitaldrug District

Sir

I am directed to forward herewith a copy of the petition dated the 27th March 1939 from some of the Advocates and pleaders of Chitaldrug on the subject of the levy of professional tax by the Chitaldrug Town Municipality and to request you to examine the several points raised therein and to submit a full report for the information of Government with all the connected records

I have the honour to be
Sir
your most obedient servant

for Secretary to Government
Local Self-Government Department

what has been done in the present case If suggestion of the petitioners is that the current rates are very high in view of the economic condition of the people, the President states that the Municipality would be willing to consider the question of reducing the rates He adds that further action on the above lines will be taken after orders are received on the other points raised by the petitioners

I may add in this connection that the collection of professional tax is going on in the Municiality according to sanctioned bye-laws and that the present levy is necessary to augment the revenues of this Municipality the financial condition of which is not quite satisfactory

The connected file of records bearing on the subject together with the copy of the printed bye-laws are enclosed herewith for reference and kind return

The favour of early orders is requested

I have the honour to be
Sir
Your most obedient servant

Deputy Commissioner
Chitaldrug District

Appendix F G—1]

SUBJECT

Section Jud
File No 43-38
Serial No 24

Diary No of letter replied to

No. L 1033

The Deputy Commissioner
Chittagong district

General and Revenue Secretariat

( )

the *193*

Sir

Date of issue 27/7/1939

Signed by Mr. Dr. S. K.

Submitting a

In reply to your letter No A6 C 46/12/38-39 dated the 9th June, 1939 ~~on the subject of the~~ report on the objection petition of certain Advocates and Pleaders of Chittagong regarding the levy of Profession tax by the local Town Municipal Council, I am directed to state that there is nothing illegal

List of enclosures

Copied by

Examined by

P To

WD 0563—GPB—30 000—6 1 39

levy of the
in the said tax and
that its ~~collection~~ ~~levy~~ ~~continued~~
Collection may be
Continued as heretofore
The records are returned herewith
I have etc

Yes
24/7

for levy to Govt
for Law Dept

I am however to add
that the levy of tax
under Classes I (Rs 100)
& class II (Rs 75) as
sanctioned further Govt
No 7669/VI 170-207
dt 25-3-49 should
not be given
effect to, as
~~under~~ Schedule V of
attached to the Town Duties Act
of 1933 omits these two
classes, as they can
be levied under the
Class I ~~of~~ Sellers are Rs 1000

25/7/

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat 27th July 1939

Dated Bangalore _____

No L1033/ml 43 38 24

From

The Secretary to the Government of His Highness the Maharaja of Mysore
Law Department

To The Deputy Commissioner,

Chitaldrug District

Sir,

In reply to your letter No A6 C 4412/38-39 dated the 9th June 1939, submitting a report on the objection petition of certain Advocates and Pleaders of Chitaldrug regarding the levy of Profession Tax by the local Town Municipal Council, I am directed to state that there is nothing illegal in the levy of the said tax and that its collection may be continued as heretofore I am however to add that the levy of Profession Tax under Class I (Rs ~~750~~ 1000/-) and Class II (Rs 75 as sanctioned for the Municipality in Government Order No 7669/Ml 170-22-7 dated 25th March 1924 should not be given effect to, as schedule V attached to the Town Municipalties Act of 1933 omits these two classes, as they both get merged under Class I getting over Rs 1,000/-

The records are returned herewith

I have the honour to be,

Sir,

Your most obedient servant,

for Secretary to Government,
Law Department

ACH 2